

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4859**

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[Introduced February 11, 2020; Referred  
to the Committee on Finance.]



1 A BILL to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §12-4-14b of said code, all relating to accounting for state funds  
3 distributed to volunteer and part-volunteer fire companies and departments; clarifying that  
4 use of such moneys for debt reduction is authorized only if the debts were incurred for  
5 specified purposes; authorizing the investment of such moneys with certain restrictions;  
6 and amending the definition of 'state funds accounts'.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

#### **§8-15-8b. Authorized expenditures of revenues from the Municipal Pensions and Protection Fund and the Fire Protection Fund; deductions for unauthorized expenditures; record retention.**

1 (a) Money received from the state for volunteer and part-volunteer fire companies and  
2 departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, may not be  
3 commingled with moneys received from any other source, except money received as a grant from  
4 the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code. Distributions  
5 from the Municipal Pensions and Protection Fund and the Fire Protection Fund allocated to  
6 volunteer and part-volunteer fire companies and departments may be expended only for the  
7 following:

8 (1) Personal protective equipment, including protective head gear, bunker coats, pants,  
9 boots, combination of bunker pants and boots, coats, and gloves;

10 (2) Equipment for compliance with the national fire protection standard or automotive fire  
11 apparatus, NFPA-1901;

(3) Compliance with insurance service office recommendations relating to fire departments;

(4) Rescue equipment, communications equipment, and ambulance equipment: *Provided*, That no moneys received from the Municipal Pensions and Protection Fund or the Fire Protection Fund may be used for equipment for personal vehicles owned or operated by volunteer or part-volunteer fire company or department members;

(5) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements;

(6) Retirement of debts, but only if the debts were incurred exclusively for the purchase of the goods and services allowed under this subsection;

(7) Payment of utility bills;

(8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood-borne pathogens: *Provided*, That the vaccine shall be purchased through the state immunization program or from the lowest-cost vendor available: *Provided, however*, That volunteer and part-volunteer fire companies and departments shall seek to obtain no-cost administration of the vaccinations through local boards of health: *Provided further*, That in the event any volunteer or part-volunteer fire company or department is unable to obtain no-cost administration of the vaccinations through a local board of health, the company or department shall seek to obtain the lowest cost available for the administration of the vaccinations from a licensed health care provider;

(9) Any filing fee required to be paid to the Legislative Auditor's Office under §12-4-14 of this code relating to sworn statements of annual expenditures submitted by volunteer or part-volunteer fire companies or departments that receive state funds or grants;

(10) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability;

(11) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage, and accounting costs;

(12) Dues paid to national, state, and county associations;

(13) Workers' compensation premiums;

(14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters; and

(15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

(b) If a volunteer or part-volunteer fire company or department spends any amount of money received from the Municipal Pensions and Protection Fund or the Fire Protection Fund for an item, service, or purpose not authorized by this section, that amount, when determined by an official audit, review, or investigation, shall be deducted from future distributions to the volunteer fire company or part-volunteer fire department.

(c) If a volunteer or part-volunteer fire company or department purchases goods or services authorized by this section, but then returns the goods or cancels the services for a refund, then any money refunded shall be deposited back into the same, dedicated bank account used for the deposit of distributions from the Municipal Pensions and Protection Fund and the Fire Protection Fund.

(d) Each volunteer or part-volunteer fire company and department shall retain, for five calendar years, all invoices, receipts, and payment records for the goods and services paid with money received from the state for volunteer and part-volunteer fire companies and departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code and money received as a grant from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

(e) Volunteer and part-volunteer fire companies and departments may also invest the received moneys, described in subsection (a) of this section, and collect interest thereon:

63 Provided, That volunteer and part-volunteer fire companies and departments shall not commingle  
64 the received moneys with funds received from any other source, shall not use the invested money  
65 as collateral or security for any loan, and shall retain all resulting statements of accounts and  
66 earnings for a minimum of five years from the date of the statements.

## CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

### ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

**§12-4-14b. Accountability of volunteer and part-volunteer fire companies or departments receiving state funds for equipment and training; review or audit of expenditures; withholding of state funds for delinquency or misuse; notifications.**

1 (a) *Definitions.* — For the purposes of this section:

2 “Equipment and training grant” means a grant of money to a volunteer fire company or a  
3 part-volunteer fire department from the Fire Service Equipment and Training Fund created in §29-  
4 3-5f of this code;

5 “Formula distribution” means a distribution of money to volunteer and part-volunteer fire  
6 companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code;  
7 and

8 “State funds ~~account~~ accounts” means a every bank account and investment account  
9 established by a volunteer or part-volunteer fire company or department ~~and maintained for the~~  
10 ~~exclusive use and accounting of~~ into which the volunteer or part-volunteer fire company or  
11 department has deposited or invested money from formula distributions and equipment and  
12 training grants.

13 (b) *Filing required documentation.* — Every volunteer and part-volunteer fire company or  
14 department seeking to receive formula distributions or an equipment and training grant shall file  
15 copies of bank statements and check images from the company’s or department’s state funds

~~account~~ accounts for the previous calendar year with the Legislative Auditor on or before February 1 of each year.

(c) *Reviews and audits.* — The Legislative Auditor is authorized to conduct regular reviews or audits of deposits and expenditures from formula distribution and equipment and training grant funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may assign an employee or employees to perform audits or reviews at his or her direction. The State Treasurer shall provide the Legislative Auditor information, in the manner designated by the Legislative Auditor, concerning formula distributions and equipment and training grants paid to volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire company or department shall cooperate with the Legislative Auditor, the Legislative Auditor's employees, and the State Auditor in performing their duties under the laws of this state.

(d) *State Auditor.* — Whenever the State Auditor performs an audit of a volunteer or part-volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit under this section.

(e) *Withholding of funds.* — The Treasurer is authorized to withhold payment of a formula distribution or an equipment and training grant from a volunteer or part-volunteer fire company or department, when properly notified by the Legislative Auditor pursuant to this section, of any of the following conditions:

- (1) Failure to file, in a timely manner, copies of bank statements and check images with the Legislative Auditor;
- (2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;
- (3) Misapplication of state funds; or

41 (4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14  
42 of this code for a state grant other than an equipment and training grant.

43 (f) *Delinquency in filing.* — If, after February 1, a volunteer or part-volunteer fire company  
44 or department has failed to file the required bank statements and check images with the  
45 Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at  
46 two separate times in writing of the delinquency and of possible forfeiture of its Fire Service  
47 Equipment and Training Fund distribution for the year. If the required bank statements and check  
48 images are not filed with the Legislative Auditor by March 31, unless the time period is extended  
49 by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold  
50 payment of any amount that would otherwise be distributed to the company or department. Prior  
51 to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall  
52 notify each delinquent company or department twice per each quarter in which the company or  
53 department is delinquent. The Legislative Auditor may choose the method or methods of  
54 notification most likely to be received by the delinquent company or department.

55 (g) *Noncooperation.* — If, in the course of an audit or review by the Legislative Auditor, a  
56 volunteer or part-volunteer fire company or department fails to provide documentation of its  
57 accounts and expenditures in response to a request of the Legislative Auditor, the Legislative  
58 Auditor shall notify the State Treasurer who shall withhold payment of any amount that would  
59 otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-  
60 3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the  
61 company or department has cooperated with the review or audit.

62 (h) *Reporting of other grants.* — Nothing in this section alters the duties and  
63 responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-  
64 4-14 of this code if that company or department has received funds from any state grant program  
65 other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified  
66 by a grantor that a volunteer or part-volunteer fire company or department has failed to file a



report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor shall notify the State Treasurer who shall withhold further distributions to the company or department in the manner provided in this section.

(i) *Escrow and forfeiture of moneys withheld.* — The Volunteer Fire Department Audit Account previously created in the Treasury is hereby continued. When the State Treasurer receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the volunteer or part-volunteer fire company or department has come into compliance in less than one year from the date of deposit into this special revenue account, then the Treasurer shall release and distribute the withheld amounts to the company or department, except that any interest that has accrued thereon shall be credited to the general revenue of the state. If, after one year from payment of the amount withheld into the special revenue account, the Legislative Auditor informs the State Treasurer of continued noncooperation by the company or department, the delinquent company or department forfeits the amounts withheld and the State Treasurer shall pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of this code.

(j) *Misuse of state money.* — If the Legislative Auditor determines that a volunteer or part-volunteer fire company or department has used formula distribution money for purposes not authorized by §8-15-8b of this code or has used equipment and training grant money for purposes not authorized by the grant program, the Legislative Auditor shall give a written notice of noncompliance to the company or department. If a volunteer or part-volunteer fire company or department disagrees or disputes the finding, the company or department may contest the finding by submitting a written objection to the Legislative Auditor within five working days of receipt of the Legislative Auditor's finding. The department or company shall then have 60 days from the date of the Legislative Auditor's finding to provide documentation to substantiate that the

93 expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company  
94 or department does not dispute the findings of the Legislative Auditor or if the company or  
95 department is not able to substantiate an authorized purpose for the expenditure, the Legislative  
96 Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall  
97 deduct that amount from future distributions to that company or department until the full amount  
98 of unauthorized expenditure is offset.

NOTE: The purpose of this bill is to refine terms relating to the allowable uses of certain moneys distributed from the state to volunteer or part-volunteer fire companies or departments and to provide for proper accounting of moneys received, spent, retained, and invested.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.